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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,099	07/05/2005	Mirco Rossetti	P-US-PR-1080	1117

7590 01/23/2008  
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EXAMINER
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LEE, LAURA MICHELLE

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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01/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/517,099

Applicant(s)

ROSSETTI ET AL.

Examiner

Laura M. Lee

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9,11,17 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,11,17 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/07/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/03/2007 has been entered.
2. It is noted that claims 1-6, 8-9, 11, 17, 21-23 are pending, and claim 1 is currently amended.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the array of first engagement means (claims 21-23) in combination with a first and second track follower member in sliding engagement with a respective first and second guide track (claim 1) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claims 5 and 6 are objected to because of the following informalities:

Claims 5 and 6 recite wherein the fence comprises a "restraining member."

However, claim 1 previously recites that the fence comprises a first and second track follower member and as stated in the specification, paragraph [0023], "at least one of the track follower members would form at least one of the releasable restraint members for restraining the fence to the work surface. Therefore, claims 5 and 6 need to be changed to reflect that the restraining member is the first or second track member.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 21, recites an array of first engagement means as shown in the embodiment of Figure 3, however, Claim 1 already sets forth the embodiment as shown in Figure 4, by the recitation of a first and second slidable track follower members. As no description exists for the combination of both features in a single embodiment, it is unclear how the features would work together, therefore the claims, 21-23, are indefinite.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 3-6, 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferdinand et al. (U.S. Patent 4,328,728), herein referred to as Ferdinand. Ferdinand discloses a miter saw (12) comprising a base (30) comprising a working surface (32) having first and second guide tracks (106/106); a saw assembly (18) pivotally

connected to the base (see Figure 6), the saw assembly comprising a blade (18, the blade being movable in a first cutting plane (extending from channel 38), the cutting plane intersecting the working surface (32) along a first cutting line (in line with channel 38), the saw assembly (18) being movable downwardly towards the base (see Figure 6) for cutting a workpiece placed on the base (30); and an adjustable elongated fence (100/100/116/116) mounted on and supported by the working surface (32), the fence being angularly displaceable (about the scale, 200) relative to the first cutting line, and longitudinally adjustable (i.e. via screws 132/115/138) along the cutting line so that the fence is displaceable in a first position (at the 90-degree angle identified in the scale, 200, of Figure 3) defining a first plane and a second position (at the next degree interval; i.e. 89-degree) defining a second plane supporting the workpiece, the first and second planes being substantially parallel, the fence remaining stationary relative to the cutting plane during a cutting operation of a workpiece placed on the base, the fence (100/100/116/116) comprising a first portion (left side, 100) disposed on one side of the cutting line and being substantially perpendicular to the working surface (see Figure 1); a first track follower member (132) connected to the first portion (100) and in cooperative sliding engagement with the first guide track (106), a second portion (right side, 100) disposed on the other side of the cutting line, the second portion (100) being substantially coplanar (at the 90-degree position) with the first portion and substantially perpendicular to the working surface (32), a second track follower member (132) connected to the second portion (100r) and in cooperative sliding engagement with the second guide track, and a rigid support element (116/116) extending outside the first

plane when in the first position and extending between and rigidly connected to the first and second portions via screws 132 and 115.

In regards to claim 3, Ferdinand discloses wherein the working surface (10) is non-adjustably mounted on the base.

In regards to claim 4, Ferdinand discloses wherein the working surface comprises a recessed channel (38)

In regards to claim 5, Ferdinand discloses wherein the fence (100/100/116/116) comprises at least one releasable restraining member (132) for restraining the fence to the work surface in a plurality of angularly adjusted orientations relative to the cutting line.

In regards to claim 6, Ferdinand discloses wherein the fence comprises a restraining member (132) comprising a first member (131; Figure 8) disposed in the working surface (32) and threadingly engaged to a second member (132) disposed on the fence (100).

In regards to claim 8, Ferdinand discloses wherein the fence extends over the cutting line (Figure 7).

In regards to claim 9, Ferdinand discloses wherein the fence comprises a recess (the break between the fence portions 100/100) for overlying the cutting line in the working surface.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferdinand in view of Wixey (U.S. Patent 5,988,031). Ferdinand does not disclose that the miter saw blade is adjustable so as to adjustably incline the cutting plane relative to the work surface. However, it is old and well known in the art to provide for angular adjustment of miter blades in order to bevel cut pieces of molding and the like, especially for angles of 45-degrees. Wixey also corroborates that providing angular adjustment to miter saws is an old and well known modification, as such it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Ferdinand miter saw to be angularly adjustable to improve the versatility of the saw.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferdinand in view of Pollak et al. (U.S. Patent 5,097,601), herein referred to as Pollak. Ferdinand discloses the claimed invention except that the wherein at least one of the first and second portions is inclined so as to accommodate the blade when the cutting plane is inclined relative to the working surface. As it is old and well known in the art to provide for angular rotation of the blade to allow for angular cutting, it is additionally old and well known to incline the ends of the fence to accommodate the angular change of

the cutting blade. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the ends of the Myhre fences to have a chamfered edge as taught by Pollack so that the fence could be positioned closer to the cutting blade and thus provide a stronger support for the workpiece.

13. Claims 1-6, 8-9, 17, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myhre (U.S. Patent 4,464,962) in view of Meredith et al. (U.S. Patent 6,561,068), herein referred to as Meredith as evidenced by Stumpf (U.S. Patent 5,755,148). Myhre discloses a miter guide device but does not disclose that is it used with a miter saw, per se, but rather with a table saw. However, since the table saw is being used with a miter guide device that allows the table saw to perform a miter cut, it is in effect also a "miter saw." However, although Myhre discloses that the saw assembly is pivotally connected, in as much as it is rotatably connected to the base, Myhre does not disclose that the saw assembly is downwardly movable towards the base for cutting a workpiece on the base. However, attention is directed to the Meredith saw (10), in which Meredith discloses a similar fence arrangement (12) in combination with a sliding miter saw, rather than a table saw, in which the saw and not the fence moves to facilitate the bevel cutting on the workpiece. Furthermore, attention is also directed to Stumpf, corroborates that applying modifications to adjustable fence systems among the saw family and specifically between sliding compound miter saws, compound miter saws, chop saws, radial arm saws, table saws, etc, would be readily recognizable to one

skilled in the art. It similarly would have been obvious to one having ordinary skill in the art at the time of the invention to have recognized the versatility of the Myhre fence system to not be limited to only miter saws, but to also be applicable to additional sawing systems such as a miter saws shown by Meredith and as evidenced by Stumpf.

Therefore, Myhre as modified by Meredith, discloses a miter saw comprising: a base (work surface, 10) comprising a working surface having a first and second guide track (track slots 15/16); a saw assembly (miter saw; Meredith 10) pivotally connected to the base, the saw assembly comprising a blade (Meredith 18), the blade being movable (slidable / rotatable) in a first cutting plane the cutting plane intersecting the working surface along a first cutting line (along the blade's radial axis), the saw assembly being movable downwardly (i.e. bevel position) towards the base for cutting a workpiece placed on the base (10); and an adjustable elongated fence (20,21) mounted on and supported by the working surface (10), the fence being angularly displaceable relative to the first cutting line (via screw 37), and longitudinally adjustable (via screw 31) along the cutting line so that the fence is disposable in a first position defining a first plane supporting a workpiece and a second position defining a second plane supporting the workpiece, the first and second planes being substantially parallel, the fence capable of remaining stationary during a cutting operation of a workpiece placed on the base. The assembly is capable of being moved in a multitude of parallel positions by rotating the workpiece guide surfaces, 33 and 33A by screws 37 until the guide surfaces are parallel to each other and then moving them longitudinally along the work surface by adjusting screws, 31.

Myhre further discloses that the fence comprises: a first portion (32) disposed on one side of the cutting line and substantially perpendicular to the working surface, a first track follower member (screw, 31) connected to the first portion (20) and in cooperative sliding engagement with the first guide track (15), the fence (20/21) being pivotally mounted about the track follower member (31) (the fence is capable of pivoting about screw 31), a second portion (32A) disposed on the other side of the cutting line, the second portion (32A) capable of being substantially coplanar with the first portion and substantially perpendicular to the working surface, a second track follower member (31A) connected to the second portion (32A) and in cooperative sliding engagement with the second guide track (16), and a rigid support element (22) extending outside the first plane when in the first position and extending between and rigidly connected to (via lock nuts and lock screws 43/44; 43A/44A) to the first and second portions (32 / 32A).

In regards to claim 2, the modified device of Myhre discloses wherein the blade is adjustable so as to adjustably incline the cutting plane relative to the work surface (see Fittery, Figure 11).

In regards to claim 3, the modified device of Myhre discloses wherein the working surface (10) is non-adjustably mounted on the base.

In regards to claim 4, the modified device of Myhre discloses wherein the working surface comprises a recessed channel (14)

In regards to claim 5, Myhre discloses wherein the fence (28) comprises at least one releasable restraining member (screws, 37) for restraining the fence to the work surface in a plurality of angularly adjusted orientations relative to the cutting line.

In regards to claim 6, the modified device of Myhre discloses wherein the fence comprises a restraining member comprising a first member (shaft, 25; Figure 3) disposed in the working surface (10) and threadingly engaged to a second member (screw, 31) disposed on the fence (20,21).

In regards to claim 8, the modified device of Myhre discloses wherein the fence (20,21) extends over the cutting line (Figure 1).

In regards to claim 9, the modified device of Myhre discloses wherein the fence (22) comprises a recess (the break between the right end of 33 and the left end of 33A) for overlying the cutting line in the working surface.

In regards to claim 17, the modified device of Myhre discloses wherein the first track follower member (31) is longitudinally adjustable along the fence via cross arm 27.

In regards to claim 21, the modified device of Myhre discloses wherein the working surface (10) comprises an array of first engagement means (plurality of locating holes, 217) for cooperative releasable engagement with at least one second engagement means (knob, 210) on the fence for restraining the fence on the working surface at a predetermined angular inclination relative to the cutting line, wherein engagement of the second engagement means with a different one of the array of first engagement means (217) restrains the fence(28) in a second predetermined angle relative to the cutting line (Figure 2).

In regards to claim 22, the modified device of Myhre discloses wherein the first engagement means comprises an array of holes (217) in the working surface and the

second engagement means comprises at least one projection member (210) for engagement with one of the array of holes.

In regards to claim 23, the modified device of Myhre discloses wherein the projection member is longitudinally adjustable along the fence.

14. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myhre in view of Fittery and in further view of Pollak et al. (U.S. Patent 5,097,601), herein referred to as Pollak. Myhre as modified by Owens discloses the claimed invention except that the wherein at least one of the first and second portions (32 /32A) is inclined so as to accommodate the blade when the cutting plane is inclined relative to the working surface. As it is old and well known in the art to provide for angular rotation of the blade to allow for angular cutting, it additionally old and well known to incline the ends of the fence to accommodate the angular change of the cutting blade. References to Pollack, Osborne, and Liu, all disclose fence systems for use with a table saw, wherein the ends are chamfered, and thus inclined relative to the working surface. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the ends of the Myhre fences to have a chamfered edge as taught by Pollack so that the fence could be positioned closer to the cutting blade and thus provide a stronger support for the workpiece.

### ***Conclusion***

Application/Control Number:  
10/517,099  
Art Unit: 3724

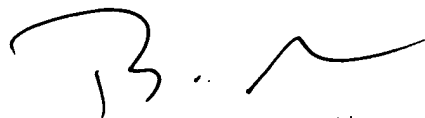
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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Lee whose telephone number is (571) 272-8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LML  
01/09/2007

  
BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER